83-15

Office - Supreme Court, U.S.
FILED
JUL 5 1983
ALEXANDER L. STEVAS.
CLERK

No.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

JOHN F. SALSBURY, AS PARENT, NATURAL GUARDIAN AND ADMINISTRATOR OF THE ESTATE OF SCOTT EDWARD SALSBURY,
Petitioner

vs.

SAINT VINCENT HOSPITAL, DISTRICT ATTORNEY VESHECCO, AND COUNTY DETECTIVE TROMBETTA,
Respondents

APPEAL FROM THE JUDGMENT OF THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

John F. Salsbury
7246 McGill Road
Harborcreek, PA 16421
(814) 899-2071

Petitioner, Pro Se

Respondents' Counsel:

Timothy J. Lucas
Office of District Attorney

John M. Quinn, Sr.
For St. Vincent Health Center

QUESTION PRESENTED

Is it a denial of equal access to justice, for the Federal Courts, to allow a Defendant the rights to discovery, which includes deposing for the record as many of their witnesses as they may chose, while denying the Plaintiff any of these same rights, which would serve to maintain Plaintiff's rights before the Court?

TABLE OF CONTENTS

	Page
Question Presented	i
Table of Contents	ii
Table of Authorities	iii
Opinions Below	1
Jurisdiction	1
Statute Involved	1
Statement of the Case	2
A. Statement of the Facts	2
B. The Proceedings Below	5
Reasons for Granting the Appeal	9
A. The Decision of the Court of Appeals for the Third Circuit Below is in Conflict With Decisions of the Court of Appeals of Other Circuits and the Rules of Federal Procedure.	9
B. The Appeal Presents an Important Question of Federal Law Which Should be specifically Addressed by this Court	13
Conclusion	16
Appendix:	
Order of the Third Circuit dismissing Appeal May 24, 1983	A15
Order of the Third Circuit denying motion for Stay of Mandate of Judgment June 14, 1983	A16

Appendix from the District Court	
Motion concerning the handling of evidence discovery denied February 1, 1983.	A3

TABLE OF AUTHORITIES

Cases: Page

National Lawyers Guild vs. Attorney General
94 FRD 600 12

Statutes and Rules:

Federal Rule Civ. Proc. Rule 27
(25 FR Serv. 2d 1060). 13,A11

Federal Rule Civ. Proc. Rule 28 U.S.C. . . . 13,A11

The intent of our congress:

H.R. 15460 15

Id. at 402 15

OPINIONS BELOW

The opinion of the Court of Appeals, attached hereto in Petitioner's Appendix ("P. App.") at P. App. A15-A16

The opinion of the District Court attached hereto at P. App. A3

JURISDICTION

The Judgment of the Court of Appeals (attached hereto at P. App. A15-A16) was entered on May 24, 1983 and a motion for a Stay of Mandate of Judgment was denied June 14, 1983 (P. App. A16) The jurisdiction of this Court is invoked under the Constitution of the United States not limited to but specifically addressed to Article 14 and all of the applicable congressionally enacted Federal Laws.

STATUTE INVOLVED

Equal access to justice, which is guaranteed to all persons born or naturalized in the United States, and subject to the jurisdiction thereof.

A. Statement of the Facts

On the tenth day of March 1982, petitioner filed before the Federal District Court Case No. 82-61, which outlined the acts of the Erie Police Department and the District Attorney's Office which was not limited to the tampering of witnesses statements, the tampering of evidence, and the attempt to destroy the private investigation that was done for petitioner, and the attempt to deny or impede petitioner's rights to counsel concerning the death of his son, Scott Edward Salsbury. The Federal District Court ruled the ninth day of June 1982 that there was no cause of action in this case and the complaint was dismissed.

Because of the District Court's decision to dismiss, in part for failure of Plaintiff to advere his capacity to bring the suit, petitioner had refiled Case No. 82-167, which did advere his capacity to bring before the Federal Court the issue of tampering of witnesses statements, evidence, attempts to destroy the private investigation, and the attempt to deny petitioner's rights to counsel. The District Court also dismissed this complaint on September 16, 1982.

Both Cases No. 82-61 and 82-167 were appealed to the Third District Court and on February 24, 1983, these Cases No. 82-5386 and 82-5586 were adjudged by the Appeals Court and an order that the judgment of the District Court is hereby affirmed.

Petitioner has filed for a writ of certiorari to the Supreme Court of the United States, and is docketed in the Court No. 82-2038 for the October Term of 1983.

On the first day of March, 1982, ten days before filing in Federal District Court Case No. 82-61, petitioner had filed in the Common Pleas Court of Erie Pennsylvania a complaint No. 856-A-1982, which concerned only one of the many issues that had been filed before the Federal Courts. This one issue was the missing physical evidence that was withheld from petitioner during the investigation of his son's death.

Pennsylvania Common Pleas Judge, Juliante allowed Plaintiff full rights of discovery and this discovery and meetings with private investigators presented enough evidence for petitioner to file in Federal District Court Case No. 82-290, which essentially stated that there were acts of tampering with evidence and acts of a failure to report and to act upon certain information which is required by law with persons having knowledge of a conspiracy, who had the power and authority to prevent a continuation of this conspiracy and failed to do so.

Federal District Judge Mencer, who was aware of all the information in Federal complaints No. 82-61 and 82-167, was now given in Case No. 82-290 sufficient information by the statement of fact that evidence was indeed tampered with while in the possession of St. Vincent Health Center.[1] The District Court was made aware that Plaintiff has knowledge that the District Attorney was a member of the Corporate Board of St. Vincent Health Center.

In the Federal Complaint No. 82-61 Page 3 No. 19, the District Court read that the District Attorney's office showed inconsequential concern to Plaintiff, regarding missing x-rays that were extremely important to the investigation of his son's death.

---

1. State's Rights of Discovery at page (S.R.D.P) No. 856-A-1982 Exhibit D The Coroner's Office was called by St. Vincent Health Center Trauma Nurse, Mrs. F. Orr, at 10:15 P.M. on 12/29/79 reporting to us the death of Scott Edward Salsbury . . . x-rays were taken which showed a fractured pelvis and femur . . . (The rest of the report is deleted for it is necessary in this case only to show that the femur x-ray was taken, the night of December 29, 1979, according to hospital personnel).

In Defendant's answer to Plaintiff's motion for continuance in State Case No. 856-A-1982 page 3 #7 their answer to Exhibit D is "The allegation of Paragraph 4 of the Motion is denied and in answer therto, the Hospital alleges that no telephone call was made to the Coroner's Office which stated that x-rays were taken of the femur."

B. The Proceedings Below

On January 25, 1983, Counsel for St. Vincent Health Center, John M. Quinn, Sr., filed a motion in Case No. 82-290 to extend time for filing his brief, and on Page 2 #4 of this motion requested of the court the following: "Said pleadings make certain factual allegations which even though the defendant, St. Vincent Health Center, believes to be unfounded, must be resolved by depositions of the Plaintiff and of the officials at St. Vincent Health Center."

On this same day, January 25, 1983, Counselor John M. Quinn, Sr. wrote a letter to the Plaintiff stating and repeating three times that the Plaintiff's deposition would be taken at the same time as the people at St. Vincent regarding the Federal Court case.

On the 28th day of January 1983, the District Court extended the time for defendant, St. Vincent Health Center.

On the 28th day of January 1983, the Plaintiff entered a motion to the District Court requesting that evidence discovery, as requested by St. Vincent Health Center, be denied, and there were seven considerations in this motion that were put before the Court. Attached to this motion to the District Court was a copy of the January 25th letter by the defendants in which they stated the manner and the way they intended to conduct the evidence discovery to support their brief requesting a dismissal by the Court.

The motion by Plaintiff concerning evidence discovery was denied the first day of February 1983 by the District Court.

On the third day of February 1983, Plaintiff filed a notice of appeal to the Third District Court concerning the manner in which the District Court was to allow discovery.

On the first day of April 1983, Appellant filed a brief in Case No. 83-5099 to the Appeals Court, which essentially stated that there was grave doubt to the integrity or the honesty concerning any depositions taken by the members of St. Vincent Health Center.[2]

---

2. 856-A-1982 (S.R.D. P) Exhibit "D" The Coroner's Office was called by St. Vincent Health Center Trauma Nurse, Mrs. F. Orr, at 10:15 P.M. on 12/29/79 reporting to us the death of Scott Edward Salsbury . . . x-rays were taken which showed a fractured pelvis and femur . . . (The rest of the report is deleted for it is necessary in this case only to show that the femur x-ray was taken, the night of December 29, 1979, according to hospital personnel).

In State Case No. 856-A-1982, defendant's answer to plaintiff's motion for a continuance states on page 3 #7: "The hospital alleges that no telephone call was made to the coroner's office which stated that x-rays were taken of the femur."

Footnotes continued

2. From the sworn deposition of the manager of x-ray for St. Vincent Health Center, Mr. Richard Calvin Gibson, taken August 20, 1982: Page 27 Q. Did I tell you that Dr. Mraz stated that he knew the x-ray was taken? A. No, sir . . . I got that from Kathleen Eck in medical records when we asked about that. Page 31 Q. Why did you search for this x-ray if you knew your own records say that it didn't exist? A. If you saw something, and then the final was when the one record about the possible . . . the traction and it was noted that there was a fracture of the femur. For those reasons . . . Page 32 Q. Would it be possible to pull a couple sheets out of there, let's say that there was an x-ray on a third sheet would it be possible to pull that sheet out of the records? A. Yes.

From the sworn deposition of Dr. Mraz taken November 17, 1982: Page 14 Q. Do you recall sending me down to the hospital and asking Sister Mary Paul to guide me, to help me look for these x-rays? A. It's obvious, from the record, that there wasn't a film taken, and it was my mistake in assuming there was. And that's all I can say about it. Q. Whoever made out that report had written that on there. A. Yeah, and I'm sure it was done without an x-ray. They just looked at the leg. It's obvious when somebody has a fractured leg. Page 16 (Concerning the time that Dr. Mraz had worked on this smashed, shortened, and rotated femur, his answer was): A. I don't know the exact time. They were trying to wheel him out as I was putting the pin in.

Footnotes continued

2. From the sworn testimony of Dr. Jeffrey J. Bednarski taken February 10, 1983: Page 16 Q. Doctor, when my attorney, Mr. Watson, had written to you asking for some help concerning this matter, you wrote back and said that you were sorry that you couldn't find the x-ray and that was all the information that you could give concerning the accident. What did you mean by that? A. I was not at the scene of the accident. I can't give you any information about what took place at that event. Q. Well, I guess certainly we all understood that. What my attorney certainly was looking for was other information. He was looking specifically for how seriously he was injured in terms that a layman could understand. Page 10 Q. According to the records, there was no pulse taken between 6:55 p.m. and 7:48 p.m., Is that correct according to this? A. According to this record, yes. Page 14 Q. Do you recall that I was permitted to see my son for approximately five or ten minutes prior to him being sent to the operating room? A. Yes I believe so. (Please note Dr. Mraz's statement on page 7 of this brief, in which he states that he was putting the pin in the leg as they were wheeling him out)

The sworn testimony of Bonnie Rossey sworn to September 27, 1982: Page 14 Q. Did the nurse tell you later that they had taken an x-ray and that they were going to put a pin in Scott's leg? A. They told us all. We were all in the waiting room. She was directing it to us all, but I heard it.

On the 12th day of May 1983, Appellant requested the Appeals Court not to quash Appeal as requested by St. Vincent Health Center.

On the 24th day of May 1983, Case No. 83-5099 was submitted by the clerk for dismissal. This Case was presented before GIBBONS and BECKER, Circuit Judges and LACEY, District Judge.

After considering Appellant's motion, the Appeal was dismissed for want of Appellate Jurisdiction.

REASONS FOR GRANTING APPEAL

A. The Decision of the Court of Appeals for the Third Circuit Below is in Conflict With Decisions of the Court of Appeals of Other Circuits and the Rules of Federal Procedure.

The decision of the Court of Appeals should be reviewed by this Court because it conflicts with the decisions of other Courts of Appeals in that it failed to review the error of the District Court which denied a Plaintiff the rights to submit arguments which would have limited the scope of discovery of the defendants prior to the filing of their brief.

The Appeals Court did not consider that when a Federal District Court, in its search to administrate the Constitution of the United States and the Federal Laws, it must be willing to accept a reasonable request for an argument from a plaintiff that would assert that there can be no honest or ethical submitting of statements of fact taken by defendants in rights of discovery for their defense in this action.

The defendants have submitted in three different statements three days before the order of the Court, that under order of the District Court plaintiff will be deposed at the same time with those people who represent the defense of St. Vincent Health Center prior to the filing of their brief.

The Appeals Court would not consider that the District Court in this case was fully aware that the Defendants were attempting to bring to bear and make part of record witnesses for their defense who are not disinterested parties.

The Appeals Court was made aware that the District Court had been presented Case No. 82-61 and 82-167 which clearly show that the counsel for the District Attorney and the County Detective had committed perjury before the Federal Courts and that in Case No. 82-290, which brought forth charges of conspiracy, and also noted to the Court that the District Attorney was a member of the Corporate Board of St. Vincent Health Center.

In view of all that was put before the Court, plaintiff should be allowed to argue that local authorities and their associates have the legal power and are afforded the self-protection option of framing and invoking the Local and State procedures and that this same power must not be allowed to enter into our Federal Justice System.

Upon considering this, plaintiff should be allowed to argue that there is doubt to the integrity of the gathering of evidence discovery which would be made part of the record, and that this was being done without allowing the plaintiff any rights whatever to counter such a move other than to make this Appeal, that this kind of act is an unequal access to justice.

The Appeals Court in not ruling on the decision of the District Court, is not venerating the true intent of our Constitution and Federal Laws which puts forth the consideration and the true intent of the men who wrote the Constitution of the United States. These men created a government to support human rights and created a Constitution that, together with congressional law, was meant to allow citizens the right to protect themselves against the government, unethical local authorities, and their associates.

If the Federal Courts do not intend to allow a plaintiff who is challenging the unethical acts of the local authorities and their associates, by denying an equal access to justice, in an effort to document allegations which no one can dispute, if proven, would be in the best interest of the community and this country, by allowing an action which would remedy the transgressions of defendants who, lacking integrity, have failed to take corrective actions on their own initiative to honor a commitment and trust that they owe to their community and to the laws of this Country.

Petitioner is asking the Supreme Count to consider that there can be no justice whatever when rights of discovery are given to defendants who may depose as many of their witnesses as they may chose, while at the same time denying any rights to the plaintiff to counter this action. Had the respondents been allowed the same privilege in the State's rights of discovery No. 856-A-1982, they would have been able to cover with impunity the acts which petitioner was able to prove because he was allowed full rights of discovery.

Discovery sanctions must be weighed in light of the full record in the case. National Lawyers Guild vs. Attorney General 94 FRD 600.

Where there is a danger of Prejudice - The Court should take strong counter-veiling consideration. 28 U.S.C.

The Respondents have stated in their brief to the Appeals Court that their request for rights of discovery prior to filing their brief was to ascertain what evidence was held by the petitioner. The Appeals Court did not consider the purpose of Rule 27, which is to preserve and perpetrate known testimony, not to provide litigants with a vehicle for the ascertainment of evidence which might be held against them. 25 FR Serv. 2d 1060.

B. The Appeal Presents an Important Question of Federal Law Which Should Be Specifically Addressed by this Court.

Petitioner is asking the Supreme Court to consider that the District Court and Appeals Court have already ruled that a parent essentially has no rights concerning the death of their children. (This issue is on Appeal to the Supreme Court Case No. 82-2038)

If the theory held by the Courts Below is correct that a parent has no rights, then it becomes painfully clear that in this case that the only rights to be given under Federal Law and our Constitution concerning any rights in Court are to be given to the local authorities and their associates.

If the lower Courts are to be upheld, and if one-sided discovery is allowed, then the entering of facts by sworn testimony of witnesses who are not disinterested parties will become forever their unquestioned statement of fact.

The defendants addressed the District Court with this statement: "Without said deposition evidence available to your honorable Court, the Court cannot make the meaningful disposition of the motion of St. Vincent Health Center to dismiss plaintiff's complaint."

The decisions of the Courts Below are in conflict with what should be considered an appropriate procedure of law that would allow citizens of the United States the right to maintain a case before the Federal Courts having equal rights to justice.

The decisions of the Courts Below should be reviewed by this Court because these decisions do not affirm an action which supports an equal rights to justice, which is guaranteed by the Constitution of the United States and our Federal Laws.

Petitioner is asking the Supreme Court to consider that in reality, had the unequal access of justice been allowed to occur without this appeal, that a Pro Se Appellant, being denied any right to discovery, would stand little chance of undoing the statements of disinterested parties as defendants would have submitted.

Rights of discovery are an important tool in determining justice.

Petitioner is asking the Supreme Court to grant rights of discovery which are equal to and which will be able to counter the discovery that has already been granted by the Federal Courts to the defendants, St. Vincent Health Center.

The tampering of evidence concerning the death of our children is too great an issue to allow this matter to wither before the onslaught of attempts to prevent presenting before the Court full discovery, and then only that which would be deemed important to the defense of persons whose only interest would be to cover and hide from public view, the acts that have occurred.

Petitioner is asking the Supreme Court to grant the equal rights of full discovery, which is the only way in which a District Court can truly rule and administer our Constitution which demands equal justice under law.

If a Plaintiff obtains an injunction, he does so not for himself alone but also as a "private attorney general", vindicating a policy that Congress considers of the highest importance. Id. at 402.

The effective enforcement of Federal Civil Rights Statutes depends largely on the efforts of private citizens. H.R. 15460.

The interpretation and analysis of the administration of Federal Law in this case will have lasting impact upon the rights of all the citizens in these United States.

CONCLUSION

For all of the foregoing reasons, petitioner requests that this brief, requesting Equal Access to Justice, be given full consideration in view of the weight of the issues presented.

Respectfully submitted,

John F. Salsbury
7246 McGill Road
Harborcreek, PA 16421
(814) 899-2071

Petitioner, Pro Se

Respondents' Counsel:

Timothy J. Lucas
Office of District Attorney

John M. Quinn, Sr.
St. Vincent Health Center

APPENDIX

IN THE UNITED STATES DISTRICT COURT (A1)
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOHN F. SALSBURY, As Parent
and Natural Guardian of
SCOTT EDWARD SALSBURY
Plaintiff

v. A.A. No. 82-290 ERIE

SAINT VINCENT HEALTH
DISTRICT ATTORNEY VESHECCO
and COUNTY DETECTIVE TROMBETTA,
Defendants

MOTION FOR AN ORDER DENYING THE REQUEST OF SAINT VINCENT HOSPITAL THE RIGHT OF EVIDENCE DISCOVERY PREVIOUS TO FILING OF THEIR BRIEF IN SUPPORT OF DISMISSAL OR AS AN ALTERNATIVE ALLOWING PLAINTIFF THE SAME RIGHTS.

Defendants should be denied their request to begin evidence discovery prior to filing their brief in support of dismissal for the following reasons:

1. Plaintiff's complaint was initiated primarily because of the rights of discovery in state case #856-A-1982. The discovery as it applies to this federal issue is in the hands of the defendants. Plaintiff has given his deposition in this case.

2. How Plaintiff tends to argue in his brief and how it relates to these matters should in no way be given to the defendants prior to filing of their brief. In this case this kind of discovery will jeopardize the rights of Plaintiff.

3. Since Plaintiff's arguments against dismissal are only a continuation of the facts as filed in the complaint and since the defendants have already denied the facts in the complaint, they have the right to continue to state their denial in their brief. Then through rights of discovery at a later date at which time Plaintiff will have equal rights of discovery, the court may then dismiss or uphold this case.

4. If the court is to allow discovery for Defendants prior to the filing of their brief, then because defendants are denying facts which Plaintiff knows are true, he is requesting that he be allowed in his own right discovery which would be helpful in his brief to secure a continuation in court.

5. As an alternative, if the court is going to allow discovery prior to the filing of briefs, Plaintiff is asking permission to be allowed to enter a motion and argument which would limit the scope of this discovery.

6. That no discovery can be allowed without the court's approval and guidance and considering always that there are two other defendants who have not answered in this case. It is suggested that care should be taken and that no action will be construed as a continuance of denial of Plaintiff's federal rights.

7. For the court's consideration, attached is a letter from Defendant dated January 25, 1983.
(See pages 13-14 of this Appendix)

Respectfully submitted,

John F. Salsbury

Motion denied this 1st day of February 1983.

Glenn E. Mencer
U.S.D.J.

On the 2nd day of February 1983, an Appeal was filed to the Federal Third Circuit Court Case No. 83-5099.

On the 3rd day of May 1983, Respondents entered their brief in support of a motion to quash appeal. Their conclusion, which was upheld by the Appeals Court, is:

Since the orders entered by the District Court involve matters of discovery, these orders are interlocutory orders, and not final orders. This court only has jurisdiction to review final orders under 28 U.S.C. &1291.

As such, this court is without jurisdiction to review these orders. Saint Vincent respectfully requests this Honorable Court to quash and/or dismiss the appeal filed by John F. Salsbury in this case.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

JOHN F. SALSBURY, As Parent and Natural Guardian of SCOTT EDWARD SALSBURY, Appellant	:	
v.	:	No. 83-5099
SAINT VINCENT HOSPITAL, DISTRICT ATTORNEY VESHECCO, COUNTY DETECTIVE TROMBETTA, Respondents	:	

THE COURT SHOULD NOT QUASH APPEAL AS REQUESTED BY MOTION OF RESPONDENT DATED MAY 3, 1983

1. This appeal involves the question of Equal Access to Justice, to which Appellant has already requested, in his brief, permission to file directly to the Supreme Court after consideration by this appeal before the Third Circuit.

2. Appellant was not opposed to a motion directed specifically to the District Court that would be considered Judicially Proper in view of the gravity of events that have occurred. Appellant is only opposed to that motion that would allow evidence discovery with impunity in whatever manner Defendants chose without Appellant having rights to put forth before the Court equal testimony to counter such a move, and as the Court knows this can only be accomplished by allowing depositions by Appellant to substantiate in his arguments against Defendant as they would hope the deposition of their witnesses would call upon the Court for dismissal.

Again, Appellant believes that he has made very clear that the issue of his motion to the District Court related to Equal Access under Federal Law.

3. Appellant is not opposed to the taking of depositions so as to better enable the District Court to make a ruling, but Appellant is opposed to this occurring as simply a matter of putting before the District Court false information which would occur without giving Appellant an equal opportunity to counter this action.

4. Appellant's motion in opposition to Defendant's motion before the District Court was not against an extension of time. Appellant hopes he has made it as clear as possible to this Appeals Court that Appellant was opposed to the taking of depositions by the Defendants when an argument, if allowed before the District Court, would clearly have shown that it is doubtful as to the integrity of these depositions and all the more reason that care should be taken to extend equal rights to Appellant to counter such actions.

In the case before the Pennsylvania State Court, Defendant, St. Vincent Health Center, filed with the State Court, that Plaintiff was outside the Statute of Limitations concerning missing physical evidence. The Health Center maintained that the Plaintiff was looking for this evidence approximately three weeks after his son's death. Testimony and evidence, as brought forth by the Plaintiff in a number of depositions of others, showed that this was not the real father, but someone involved in a conspiracy to cover the true nature of the death of Scott Edward Salsbury. All of Plaintiff's time and resources were used to disprove the allegations by the Health Center. The real truth as proven was that the true Father of Scott Edward Salsbury came looking for missing physical evidence long after the death of his son.

Had the Plaintiff in the State Case not had full rights under state law to bring forth testimony and evidence to set right the sworn testimony of the Hospital's witnesses, the case would have been discharged on the merits that it was outside the statute of limitations.

Had the Defendant, St. Vincent Health Center, been allowed to take the position in the State Case that they are now requesting from the Federal Courts, the evidence as gathered by the Plaintiff in the State's rights of discovery would have been quashed. (A portion of this is contained in Appellant's brief).

At the time Plaintiff was making a plea to the District Court, because of the acts that had occurred, which includes the denial by Defendant that their own personnel stated to the Coroner, which is part of his official report, that the physical evidence in question did exist and was reported as such less than one hour after the death of Scott Edward Salsbury. The bone specialist stated to hospital personnel, Kathleen Eck, that he knew x-rays were taken. He later denied any knowledge of the existance of the physical evidence in question.

Appellant was not certain what other kind of surprises were in store from the events that occurred within the walls of that medical center the night Scott Edward Salsbury died, and the year that followed when this Father began an attempt to investigate the true nature of his son's death.

To allow Defendants to put forth sworn testimony under the circumstances involving cases no. 82-61 and 82-167, which were before the District Court, without having equal rights to be able to submit to the Court on behalf of Plaintiff's plea is a gross continuation of this miscarriage of justice, and certainly an unequal access to justice under the constitution and the laws of the United States.

5. This Appeal was put forth as a request for equal rights under the law and the plea before the District Court was not a denial in opposition to the extension of time as put forth by the Defendants. (See Appendix page 27-28) This Appeal is from the decision of the District Court which would allow the Defendants to continue in the manner they have demonstrated and to which their motion was intended.

Appellant had asked the District Court to limit the scope of discovery by the Defendants prior to the filing of their brief. This was denied.

Appellant had put forth before the District Court the argument: "That to give information relating to how Plaintiff intends to argue in his brief and how they relate to these matters, should in no way be given to the Defendants prior to the filing of their brief." This was denied. Appellant pleaded to the District Court that what was occurring would jeapordize the rights of Appellant.

Appellant maintained before the District Court that rights of discovery at a later date, if the Court accepted Plaintiff's complaint, that the case could be dismissed or upheld, but in either case at such time Plaintiff would have equal rights of discovery.

Appellant further pleaded to the District Court with a request that if the Court is to allow discovery for Defendant prior to the filing of their brief, then because Defendant was denying facts which Plaintiff knew were true, he was requesting that he be allowed in his own right discovery which would be helpful in maintaining his rights before the Federal Court.

Appellant further pleaded of the District Court that if it did not agree with the position of the Plaintiff, that it should as an altermative if the Court is going to allow Defendants discovery prior to the filing of their brief, then Plaintiff begged the District Court permission to be allowed to enter a motion and arguments that would limit the scope of their discovery. This was denied.

6. It should be clear to everyone that Appellant's plea to the District Court, that discovery be taken under guidance of the Court, could in no way indicate to this Appeals Court, the District Court, or anyone, that Appellant was requesting that discovery should be totally denied, but only that the District Court, having viewed cases 82-61 and 82-167, should have taken the responsible initiative to insure equal justice by

giving the Plaintiff's motion consideration.

Appellant feels that the impact on how the Federal Courts serve the citizens of his community are so important that he has indicated to the Clerk for the Third Circuit, his intentions to go before the Supreme Court of the United States with the cases that were on Appeal, which case no. 82-5386 is before the Court on a petition for rehearing.

The District Court, considering the grevious matters in both the above cases and having been told by the Plaintiff in a conference meeting that he in conscience could not settle out of Court and requested of the District Court a legal and moral responsibility be applied to prevent this kind of occurance against other citizens by the issuing of declaratory and injunctive judgments in both cases.

The District Court should have recognized under the weight of the seriousness of all the issues before it that Plaintiff is crying out for justice not only in his own right but considering all of this, the rights of others.

The matters before the Federal Courts are of such grevious nature that every word, intention, and deed will effect the citizens of this country.

For this reason, Appellant is asking this Appeals Court to consider with great care and empathizing with the minds of the common man, this request for justice under law and show its concern by allowing Appellant to take this matter directly to the Supreme Court so

that the answers to these issues will be made clear and effect justice as it is applied equally to every citizen throughout these United States as it is demanded by our Constitution.

7. Where there is a danger of Prejudice - The Court should take strong counter-veiling considerations. 28 U.S.C.

The purpose of Rule 27 is to preserve and perpetrate known testimony, not to provide litigants with a Vehicle for the ascertainment of evidence. 25 FR. Serv 2d 1060. - - On page four of the Brief of Appellees is this statement "St. Vincent sought to discover from Mr. Salsbury any evidence he had to support his claim that St. Vincent conspired with the other Defendants."

8. The evidence held by Appellant, Mr. Salsbury, is not going to disappear before it can be developed before the Federal Court. This information should not be given to the St. Vincent Health Center prior to determining Appellant's rights in Court, and finally, there is enough material fact that has been sworn to in the State's rights of discovery, which is in the hands of the Defendants, to prove the position of Plaintiff's complaint. This evidence is not going to disappear and for this reason, the request of the Defendant does not show the true intention of their request of the Court.

Appellant is maintaining that they will continue their deception and they will attempt to prevent Appellant from having equal rights in Federal Court, and for this reason, Appellant feels there is merit to his Appeal.

WHEREFORE, Appellant respectfully requests that his appeal, which is also a plea for justice, be given full consideration and that it should not be quashed and that this matter should be allowed to be argued before the Supreme Court so that the common man may be protected as the true intent of our Constitution was meant to serve. Appellant begs that brief should not be denied from the minds of men who can administer justice and that the reading of Appellant's brief will show the true intentions and the position of the Defendants.

Respectfully submitted,

John F. Salsbury,
Appellant, Pro Se

7246 McGill Road
Harborcreek, PA 16421
(814) 899-2071

Dated: May 12, 1983

QUINN, GENT, BUSECK AND LEEMHUIS, INC.
ATTORNEYS AT LAW

1400 G. Daniel Baldwin Building
ERIE PENNSYLVANIA 16501 - 1983

January 25, 1983

Mr. John F. Salsbury
7246 McGill Road
Harborcreek, PA 16421

refer to:
JMQ, Sr.

Re: Salsbury v. Saint Vincent Health Center, District Attorney Veshecco and County Detective Trombetta
United States District Court
C. A. No. 82-290 Erie

Dear Mr. Salsbury:

As you are aware, I had previously filed a Motion to Dismiss your Federal Court Complaint above cited. On Monday, I received a copy of the Pleading you filed with the Court captioned "Arguments Against Dismissal On Motion for Summary Judgment". Since this pleading recites factual matters, we must defer Argument on our Motion until after your Deposition can be taken and the Depositions of the people at Saint Vincent regarding the Federal Court case.

I am, therefore, enclosing a Motion to the Court to defer filing our Brief until after we take your Deposition and the Deposition of the Saint Vincent people regarding this matter.

I would like to arrange your Deposition at your convenience and not have to file legal Summons on you to appear on a specific date. Would you please then call me and let me know when your Deposition can be taken any time after February 5th, and we will arrange to have your Deposition taken and the Deposition of the Saint Vincent people taken at the same time.

Very truly yours,

QUINN, GENT, BUSECK AND LEEMHUIS, INC.

John M. Quinn, Sr. [3]

Enclosure
cc: Michael J. Veshecco, Esq. [4]
(With Enc.)

---

3. John M. Quinn is a Corporate Member and also trustee of St. Vincent Health Center.

4. District Attorney Michael J. Veshecco, who is also a Corporate Member of St. Vincent Health Center.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C. A. No. 83-5099

JOHN F. SALSBURY, as Parent and Natural Guardian of Scott Edward Salsbury

vs.

SAINT VINCENT HOSPITAL, DISTRICT ATTORNEY VESHECCO, and COUNTY DETECTIVE TROMBETTA

John F. Salsbury, Appellant

(W.D. Pa. Civ. No. 82-00290)

Present: GIBBONS and BECKER, Circuit Judges and LACEY, District Judge

---

The foregoing Appeal is dismissed for want of Appellate procedure

By the Court,

John J. Gibbons
Judge

Dated: May 24, 1983

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 83-5099

JOHN F. SALSBURY, et al

vs.

SAINT VINCENT HOSPITAL, DISTRICT ATTORNEY VESHECCO and COUNTY DETECTIVE TROMBETTA.

John F. Salsbury, Appellant

Present: GIBBONS and BECKER, Circuit Judges and LACEY, District Judge

1. Motion by Appellant for Stay of Mandate of Judgment which the Court may wish to treat as a Motion to Recall the Mandate.

2. Enclosed is copy of this Court's Order Dated May 24, 1983.

The foregoing Motion is denied

By the Court,

John J. Gibbons
Circuit Judge

Dated: June 14, 1983

Office-Supreme Court, U.S.
FILED
SEP 12 1983
ALEXANDER L. STEVAS,
CLERK

No. 83-15

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

JOHN F. SALSBURY, AS PARENT, NATURAL GUARDIAN AND ADMINISTRATOR OF THE ESTATE OF SCOTT EDWARD SALSBURY, Petitioner

vs.

SAINT VINCENT HOSPITAL, DISTRICT ATTORNEY VESHECCO, AND COUNTY DETECTIVE TROMBETTA, Respondents

SUPPLEMENTAL BRIEF BY PETITIONER

John F. Salsbury
7246 McGill Road
Harborcreek, PA 16421
(814) 899-2071

Petitioner, Pro Se

Respondents' Counsel:

Timothy J. Lucas
Office of District Attorney

John M. Quinn, Sr.
For St. Vincent Health Center

QUESTION PRESENTED

Is it a denial of equal access to justice, for the Federal Courts, to allow a Defendant the rights to discovery, which includes deposing for the record as many of their witnesses as they may chose, while denying the Plaintiff any of these same rights, which would serve to maintain Plaintiff's rights before the Court?

TABLE OF CONTENTS

	Page
Question Presented	1
Table of Contents	ii
Reference Defendants motion to dismiss January 12, 1983	1
Reference Plaintiff's arguments against dismissal January 22, 1983	1
Reference Defendants motion to extend time for filing brief January 25, 1983 . .	2
The admission in State Court that the District Attorney is a Corporate Member of the Hospital August 17, 1983	2
Reference Defendants motion to extend time for filing concerning evidence discovery January 25, 1983	3-4
Reference to the transcript in the Court of Common Pleas of Erie County Pennsylvania Case No. 856-A-1983 which is appealed to the Superior Court of Pennsylvania Case No. 273 PITTSBURGH 1983	4-5
The records to be certified by the Pennsylvania State Court	4-5
Request of Petitioner asking the Supreme Court to review the transcript of proceedings in the State Court	5
Certificate of Service	6

INFORMATION THAT HAS BECOME A MATTER OF RECORD IN STATE COURT THAT DEFENDANTS, IN THEIR PLEADINGS, BELIEVED TO BE UNFOUNDED AT THE TIME OF PARTY'S LAST FILING BEFORE THE FEDERAL COURTS.

Petitioner has stated that the District Attorney Veshecco is a Corporate Member of the Board with St. Vincent Health Center.

A. Before the Federal District Court, Defendant, St. Vincent Hospital, filed a motion to dismiss dated January 12, 1983, in which they stated on Page 2, No. 5:

"The alleged association between St. Vincent Hospital and the District Attorney's Office is insufficient as a matter of law to give rise to a finding that St. Vincent Hospital is a State Actor subject to liability . . . . . "

Before the Federal District Court, Plaintiff, John F. Salsbury, filed arguments against dismissal dated January 22, 1983 in which was stated on Page 4, No. 5:

"Plaintiff did not assert that the District Attorney's Office was associated with the hospital but that the District Attorney himself is associated with the hospital. "

INFORMATION THAT HAS BECOME MATTER OF RECORD IN STATE COURT . . . .

B. Before the Federal District Court, Defendant, St. Vincent Hospital, filed a motion to extend time for filing brief, dated January 25, 1983, in which they stated on Page 2, No. 4:

"Said pleading makes certain factual allegation which, even though the Defendant Health Center believes to be unfounded, must be resolved by Depositions of the Plaintiff and of the Officials at Saint Vincent Health Center."

C. Before the Superior Court of Pennsylvania Case No. 273 PITTSBURGH 1983, Defendant, St. Vincent Health Center, has stated in their brief on Page 27 that the District Attorney is a Corporate Member of the Hospital.

INFORMATION THAT HAS BECOME MATTER OF RECORD IN STATE COURT . . . .

The District Attorney is a Corporate Member of the Board.

While the Respondents were attempting to mislead the Federal Court in an effort to gain discovery in a manner that would allow them to make as a part of the record testimony of their witnesses who are not disinterested parties, in an effort to gain a dismissal. They had at the same time before them a list in alphabetical order by last name of all the members of its Corporate Board.

At the time Respondents were addressing the Federal Court, they had full knowledge that the District Attorney and his Father were the only names so listed: As Michael J. Veshecco and M. J. Veshecco.

D. Before the Federal District Court, Defendant, St. Vincent Hospital, filed a motion to extend time for filing brief, dated January 25, 1983 in which they stated on Page 2, No. 4:

INFORMATION THAT HAS BECOME MATTER OF RECORD IN STATE COURT . . . .

"Without said Deposition Evidence available to your Honorable Court, the Court cannot make a meaningful disposition of the Motion of Saint Vincent Health Center to dismiss Plaintiff's Complaint . . . . ."

The reading of the transcript of proceedings in the Court of Common Pleas of Erie County Pennsylvania, Case No. 856-A-1982, will show that there can be no doubt that the integrity of the Respondents are such that no discovery should be allowed without Petitioner having equal rights.

For this purpose, Petitioner is requesting of the Court of Common Pleas of Erie County to certify the exhibits and the sworn testimony of the following persons:

1. Dr. Jeffrey J. Bednarski
   Deposed February 10, 1983

2. Private Investigator
   Raymond Hipwell
   Deposed September 9, 1982

3. Dr. James E. Mraz
   Deposed November 17, 1982

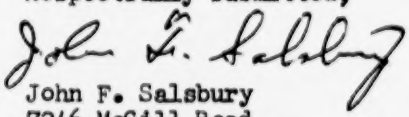
4. Bonnie Rossey
   Deposed September 27, 1982

INFORMATION THAT HAS BECOME MATTER OF RECORD IN STATE COURT . . . .

5. Attorney Thomas Dana Watson
Deposed October 14, 1982

The exhibits and the date of their occurance and how they relate to the testimony are very important to the standing of this case, and Petitioner respectfully requests the Court to review this matter as it relates to the standing of this case before the Supreme Court of the United States.

Respectfully submitted,



John F. Salsbury
7246 McGill Road
Harborcreek, PA 16421
(814) 899-2071

Petitioner, Pro Se

Respondents' Counsel:

Timothy J. Lucas
Office of District Attorney

John M. Quinn, Sr.
St. Vincent Health Center

CERTIFICATE OF SERVICE

I hereby certify that three copies of this Supplemental Brief by Petitioner were sent this thirty-first day of August 1983 by first-class United States Mail to the following parties of record or their counsel, pursuant to Rule 28.3 of the Rules of the Supreme Court of the United States:

Timothy J. Lucas, Esq.
Office of the District Attorney
Erie County Courthouse
Erie, PA 16501

John M. Quinn, Sr.
1400 G. Daniel Baldwin Bldg.
Erie, PA 16501